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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gaetan L. Mathieu

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EXAMINER

CHANG, RICK KILTAE

ART UNIT

PAPER NUMBER

3726

NOTIFICATION DATE

DELIVERY MODE

01/08/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ecowles@kmclaw.com

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<b>Office Action Summary</b>	<b>Application No.</b> 09/527,931	<b>Applicant(s)</b> MATHIEU ET AL.	
	<b>Examiner</b> Rick K. Chang	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 71-75,77-88 and 102-121 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 71-75,77-88 and 102-121 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The final Office Action dated 3/18/08 is hereby withdrawn in favor of the following final Office Action.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 71-75, 77-88, 102-107, and 109-121 are rejected under 35 U.S.C. 102(e) as being anticipated by Daugherty, Jr. (US 5,990,695).

Re claims 71-75, 77-86, 105, 107, 110-113, 116-121 : Daugherty discloses that adjusting by selectively adjusting 48s, turning either clockwise (push) or counterclockwise (pull), adjusts the shape of 38s in turn changes the orientation of the probes without contacting the one or more devices to be tested. 48s are actuators.

By considering two opposite or adjacent 38s as a first substrate (other two opposite or adjacent 38s as a second substrate), one 38 is a central region and another 38 is a peripheral region. By adjusting each corresponding 48, turning either clockwise (push) or counterclockwise (pull), to each 38, the central region and the peripheral region will have a plurality of forces and have different forces acting on to each region (either pull or push force; this is applied to other two opposite or adjacent 38s). This application of forces can be equally applied to other two opposite or adjacent 38s as a second substrate using their corresponding 48s. Further, all 48s can

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be adjusted independently to its corresponding substrates to provide either push or pull forces.

This imparts

Fig. 3 shows a plurality of probes comprises a first array of probes (five (5) 18s congregated together in Fig. 3 or five (5) 18s together with any one of the other three (3) 18s) and a second array of probes (three (3) 18s opposite to five (5) 18s or three (3) 18s opposite to five (5) 18s together with any one of the other two (2) 18s or five (5) 18s).

Re claims 87-88: Fig. 3 shows a plurality of probes comprises a first array of probes (five (5) 18s congregated together in Fig. 3 or five (5) 18s together with any one of the other three (3) 18s) and a second array of probes (three (3) 18s opposite to five (5) 18s or three (3) 18s opposite to five (5) 18s together with any one of the other two (2) 18s or five (5) 18s).

18s are elongate and resilient (46) to comply with the shape of 19F.

Re claims 102, 104: see Fig. 1.

Re claim 103: as shown in the state of Fig. 1, 48s do not move devices to be tested.

Re claim 106: each 48 applies a plurality of forces to a plurality of regions of each 38.

Re claims 109, 114-116: 22 is a reference to structure to both first and second substrates.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 108 rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty, Jr. (US 5,990,695).

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Daugherty discloses that 20 and 26(28) can take other shapes for instance circular (col. 4, lines 28-29).

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to shape 20 and 26(28) such as curved or circular towards the device to be test to impart curvature to the surface during adjusting.

Therefore, it would have been an obvious matter of design choice to modify Daugherty to obtain the invention as specified in claim 108.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Interviews After Final***

6. Applicant note that an interview after a final rejection must be submitted briefly in writing the intended purpose and content of the interview (the agenda of the interview must be in writing). Upon review of the agenda, the Examiner may grant the interview if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

### ***Conclusion***

7. Please provide reference numerals (either in parentheses next to the claimed limitation or in a table format with one column listing the claimed limitation and another column listing corresponding reference numerals in the remark section of the response to the Office Action) to all the claimed limitations as well as support in the disclosure for better clarity (optional).

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Applicants are duly reminded that a full and proper response to this Office Action that includes any amendment to the claims and specification of the application as originally filed requires that the applicant point out the support for any amendment made to the disclosure, including the claims. See 37 CFR 1.111 and MPEP 2163.06.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick K. Chang whose telephone number is (571) 272-4564. The examiner can normally be reached on 5:30 AM to 1:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rick K. Chang/  
Primary Examiner, A.U. 3726

RC  
January 6, 2009